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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,869	06/28/2001	Matthijs A. Gates	MS1-906US	5370

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EXAMINER	
VENT, JAMIE J	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/895,869	GATES ET AL.	
	Examiner	Art Unit	
	Jamie Vent	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 August 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23,25-44,46 and 47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed August 26, 2004 have been fully considered but they are not persuasive.

On pages 13-19 applicant argues that Vallone et al fails to teach, suggest, or disclose the limitation of "receiving a broadcast data stream encoded using a first encoding format or a second encoding format" as disclosed in Claims 1, 12, 32, 34, and 43. Vallone et al discloses a system, which receives a broadcast data stream that is encoded using an MPEG encoding format as described in Column 5 Lines 20-25 and Column 8 Lines 10-18. The use of intra-frames and inter-frames allows for multiple encoding formats within the MPEG stream and thereby meets the limitation of a first encoding format. Thereby, the encoded formats are stored onto the hard disk and decoded for playback purposes as seen in Figure 8. Although, applicant's points are understood the examiner cannot agree and the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-47 are rejected under 35 U.S.C. 102(e) as being unpatentable by Vallone et al (US 6,642,939).

[claim 1]

In regard to Claim 1, Vallone et al discloses a method comprising:

- Receiving a broadcast data stream encoded using a first encoding format or a second encoding format (Figure 1 shows receiving a broadcast data stream that is encoded using various formats as stated in Column 5 Lines 20-25 and Column 8 Lines 10-18);
- Demultiplexing the received broadcast data stream while maintaining the encoding format of the broadcast data stream (Column 8 Lines 3-8 describe the demultiplexing of the broadcast data stream);
- Storing the received broadcast data stream on a storage device in the encoded format (Figure 1 storage device/hard disk drive 105 wherein the broadcast data stream is stored in an MPEG format); and
- Time shifting the broadcast data stream (Column 10 Lines 62+ describes a function of pausing thereby time shifting the broadcast data stream).

[claims 2 & 3]

In regard to Claims 2 and 3, Vallone et al discloses the broadcast data stream is a digital data stream and may utilize any data format (Column 5 Lines 6-11 states that television (TV) input streams are inputted in multiple forms).

[claims 4 & 21]

In regard to claims 4 and 21, Vallone et al discloses the storing the received broadcast data stream on a storage device includes writing the broadcast data stream to an application programming interface (Figure 13 shows the queue up of programs from the hard disk for writing data to an application program interface).

[claims 5, 6, 7, & 26]

In regard to Claims 5, 6, 7, and 26 Vallone et al discloses the method of further comprising retrieving:

- the broadcast data stream from the storage device (Figure 1 shows the data stream from the storage device);
- the broadcast data stream simultaneously (Figure 2 shows the data stream being retrieved simultaneously from the media switch); and
- Different portions of the broadcast data stream simultaneously (Figure 6 shows different portions of the broadcast data stream simultaneously retrieved).

[claims 8, 9, 10, 22, & 23]

In regard to Claims 8, 9, 10, 22, and 23 Vallone et al discloses the method wherein the received broadcast stream is stored on the storage device using:

- Plurality of single temporary files (Figure 9 cache file 918 has group of single temporary files); and
- At least one permanent file (Column 17 Lines 5-8 default preference files that are permanent in the system).

[claims 11, 31, and 36]

In regard to Claims 11, 31, and 36, Vallone et al discloses that one or more computer-readable memories containing a computer program is executable by a processor to perform the method as recited in Claims 1, 12, and 32 respectively (Figure 8 and 9 shows the program logic of the computer program that performs the methods as stated in methods 1, 12, and 32).

[claim 12]

In regard to Claim 12, Vallone et al discloses the method comprising:

- Receiving a digital data stream in one of a plurality of different encoding formats (Figure 1 shows receiving a digital data stream that is encoded using various formats as stated in Column 5 Lines 20-25 and Column 8 Lines 10-18);
- Separating components of the digital data stream (Column 8 Lines 3-8 describe the demultiplexing of the digital data stream);
- Storing the components of the digital data stream on a storage device wherein the components are stored in the encoded format (Figure 1 storage device/hard disk drive 105);
- Receiving a command to play back the digital data stream (Figure 7 command can be given to media switch regarding playback);
- Retrieving at least one of the stored components of the digital data stream from the storage device (Column 8 Lines 31-35 states the retrieving of the stored components of the digital data stream);

- Decoding the retrieved component (Figure 9 shows a decoder for the retrieve component needed for output of the data stream) and
- Rendering the components of the digital data stream in a manner that corresponds to the received play back command (Figure 7 parse 705 and event queue 708 renders the streams for playback control).

[claim 13]

In regard to Claim 13, Vallone et al discloses a method comprising:

- Receiving a command to pause play back of the digital data stream and halting rendering of the components of the digital data stream in response to the pause command (Column 9 Lines 60-68 describe the pause method and the systems response to the command).

[claims 14, 15, 16, 17, 18, 19, & 20]

In regard to Claims 14, 15, 16, 17, 18, 19, and 20, Vallone et al discloses the play back command is: playback command, rewind command, fast forward command, seek command, slow motion play command, skip forward command, and skip backward command (Column 8 Lines 16-17).

[claim 25]

In regard to Claim 25, Vallone et al discloses the digital data stream can be encoded using any encoding format and can utilize any data format (Column 5 Lines 20-25 and Column 8 Lines 10-18 describe encoding methods of the system).

[claims 27 & 28]

In regard to Claims 27 and 28, Vallone et al discloses a method wherein the retrieving the stored components of the digital data stream includes a first device retrieving data associated with a first data stream stored on the storage device and a second device simultaneously retrieving data associated with a second data stream stored on the storage device (Column 8 Lines 44-50 describe the method and devices used for retrieving data).

[claims 29 & 30]

In regard to Claims 29 and 30, Vallone et al discloses a method wherein separating components of the digital data stream includes demultiplexing video data and audio data and internet protocol data from the digital data stream (Column 8 Lines 6-8 states the demultiplexing of audio, video and "private data channel streams" which would encompasses internet protocol data).

[claim 32]

In regard to Claim 32, Vallone et al discloses the method of data streams as stated in claims 12 with the additional limitations of receiving a request to pause rendering of the broadcast data stream in response to the pause request to halt rendering of the broadcast data stream and continuing to store the components of the broadcast data stream on the storage device (Column 9 Lines 60-68 and Column 10 Lines 1-10 states the events that occur when a pause request is received and the storage of the broadcast data stream onto the hard disk drive).

[claims 33 & 34]

In regard to Claims 33 and 34, Vallone et al discloses the broadcast data stream is a television broadcast and is digital data stream (Column 5 Lines 6-11 states that television (TV) input streams are inputted in multiple forms).

[claim 35]

In regard to Claim 35, Vallone et al discloses a method comprising of receiving a request to resume rendering of the broadcast data stream and rendering the broadcast data stream based on the request to resume rendering of the broadcast data stream (Figure 27 and element 2707 to resume rendering of the broadcast data stream).

[claim 37]

In regard to Claim 37, Vallone et al discloses one or more computer-readable media having stored thereon a computer program (Figures 8 and 9 show the program logic that resides in the CPU seen in Figure 7 element 713) that, when executed by one or more processors, causes the one or more processors to:

- Separate the components of a broadcast data stream (Column 8 Lines 3-8 describe the demultiplexing of the digital data stream);
- Store the components of the broadcast data stream on a hard disk drive (Figure 1 storage device/hard disk drive 105);
- Receive a request to play back the stored components of the broadcast data stream (Figure 7 command can be given to media switch regarding playback);;

- Retrieve the stored components of the broadcast data stream from the hard disk drive (Column 8 Lines 31-35 states the retrieving of the stored components of the digital data stream);
- Decode the components of the broadcast stream (Figure 8 shows a decoder for decoding the components of the broadcast stream); and
- Rendering the components of the broadcast stream (Figure 7 parse 705 and event queue 708 renders the streams for playback control.

[claims 38 & 39]

In regard to Claims 38 and 39, Vallone et al discloses one or more computer-readable media wherein rendering the following:

- Components of the broadcast stream includes rendering the components of the broadcast stream in a manner that corresponds to the received play back request (Figure 8); and
- Components of the broadcast stream include rendering multiple copies of the broadcast stream simultaneously (Figure 9).

[claims 40, 41, & 42]

In regard to Claims 40, 41, and 42, Vallone et al discloses one ore more computer-readable media wherein:

- Broadcast data stream is a television broadcast (Figure 7 input signal is determined television broadcast through MPEG decoder)
- Separate components of a broadcast data stream include audio data, video data, and Internet Protocol data (Column 8 Lines 6-8 states the

demultiplexing of audio, video and "private data channel streams" which would encompasses internet protocol data)...

[claim 43]

In regard to Claim 43, Vallone et al discloses an apparatus comprising:

- A capture module configured to capture a data stream, wherein the data stream may be represented in a plurality of different data formats and wherein the data stream is encoded using an encoding format (Figure 8 element 801 captures different data formats);
- Data storage module configured to store the captured data stream in the encoded format (Figure 8 element 804); and
- Rendering module configured to decode the data stream and to render the data stream from the data stored on the data storage module (Figure 8 double arrow between elements 802 and 804).

[claim 44]

In regard to Claim 44, Vallone et al discloses the data stream is encoding using any encoding format (Column 5 Lines 20-25 and Column 8 Lines 10-18 describes the encoding format);

[claim 46]

In regard to Claim 46, Vallone et al discloses the capture module is further configured to separate the components of the data stream and the data storage module is further configured to store each of the separate components of the data stream (Column 9 Lines 20+ describes the storage of the data stream into the hard disk).

[claim 47]

In regard to Claim 47, Vallone et al discloses the data storage module includes at least one hard disk drive (Figure 1).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie Vent whose telephone number is 703-305-0378. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamie Vent
01/07/2005